

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.26908 of 2015 (O&M)
Date of Decision: 22.12.2015.

Tahir Hussain

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sanjeev Kumar Bawa, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Petitioner impugns an order dated 07.02.2014 passed by the Assistant Mining Engineer, Department of Mines and Geology, Haryana Gurgaon, whereby his dumper truck was confiscated/seized under the provisions of The Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (for short '2012 Rules').

2. The vehicle having been released on *superdari*, State filed a revision and the learned Sessions Judge, Mewat vide order dated 04.11.2015 (Annexure P-3) has directed the petitioner to surrender the vehicle within a period of 45 days. Writ of certiorari is sought to quash the order dated 04.11.2015.

3. It has gone uncontroverted that the petitioner had also filed CRM No.M-42413 of 2015 in this Court seeking the same very relief. This petition was permitted to be dismissed as withdrawn vide order dated 15.12.2015 and which reads as under:

“Learned counsel for the petitioner prays for permission to withdraw the present petition with liberty to take appropriate remedy.

Allowed as prayed for.

Dismissed as withdrawn with the aforesaid liberty.

Sd/-

December 15, 2015

*(AJAY TIWARI)
JUDGE”*

4. Counsel would inform us that the petition had been withdrawn to avail of the remedy of appeal before the Director provided under Rule 109 of the 2012 Rules.

5. The petitioner having elected to choose a remedy and having withdrawn the quashing petition filed under Section 482 Cr.P.C. cannot be permitted to raise the same very grievances and prayers under Article 226 of the Constitution of India.

6. The writ petition is accordingly disposed of as not maintainable.

7. It would, however, be open for the petitioner to avail of his remedies as may be available strictly in accordance with law.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(TEJINDER SINGH DHINDSA)
JUDGE**

22.12.2015

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